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Purchased by	: SHEETAL VOHRA
Description of Document	: Article 12 Award
Property Description	: ARBITRAL AWARD UNDER INDRP RULES
Consideration Price (Rs.)	: 100 (One Hundred only)
First Party	: SRIDHARAN RAJAN RAMKUMAR
Second Party	: SRIDHARAN RAJAN RAMKUMAR
Stamp Duty Paid By	: SRIDHARAN RAJAN RAMKUMAR
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)

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**BEFORE THE SOLE ARBITRATOR UNDER THE .IN DOMAIN NAME
DISPUTE RESOLUTION POLICY
INDRP ARBITRATION
THE NATIONAL INTERNET EXCHANGE OF INDIA [NIXI]
INDRP CASE NO: 1767
ARBITRAL TRIBUNAL CONSISTING OF SOLE ARBITRATOR
SRIDHARAN RAJAN RAMKUMAR, ADVOCATE, DELHI HIGH COURT
COMPLAINT UNDER .IN DOMAIN NAME DISPUTE RESOLUTION
POLICY (INDRP)**

IN THE MATTER OF:

Pouring Pounds India Private Limited

Second Floor, Plot No. 35P

Sector 44, Gurugram

Haryana – 122002

...Claimant/Complainant

Versus

Buykaro Official (*International Postal Name*)

Kharwal Colony

Lower Kalabarh Near No. 4 School,

Kotdwara

Uttarakhand-246149

Email: officialbuykaro@gmail.com;

Phone No.: +91- 9368464988

...Respondent

ARBITRATION AWARD

I. THE PARTIES:

1. COMPLAINANT



The Complainant in this administrative proceeding is **Pouring Pounds India Private Limited**, a company incorporated under the laws of India, which has filed the present complaint under rules framed under the INDRP.

The Complainant's authorized representative in this administrative proceeding is:

Name: Ms. Sujata Chaudhri

Address: Sujata Chaudhri IP Attorneys
2106 Express Trade Towers 2
1st Floor, B-36, Sector 132
Expressway, NOIDA
Uttar Pradesh 201301

Telephone: +91 8860130723

E-Mail: trademarks@sc-ip.in

A Power of Attorney in favour of the above-mentioned representatives was enclosed as **ANNEXURE – A**.

The Complainant's preferred method for communication directed to the complainant in the administrative proceeding:

Electronic-Only Material

- a. Method: E-mail
- b. Email: trademarks@sc-ip.in; sujata@sc-ip.in
- c. Contact: Ms. Sujata Chaudhri

Material Including Hard Copy



- a. Method: Courier
- b. Address: Sujata Chaudhri IP Attorneys
2016 Express Trade Towers 2
1st Floor, B-36, Sector 132
Expressway, NOIDA
Uttar Pradesh – 201301
- c. Contact: Ms. Sujata Chaudhri

2. **RESPONDENT**

The Respondent/Registrant of the Disputed Domain Name is Buykaro Official, (*International Postal Name*) having address at Kharwal Colony, Lower Kalabarh Near No. 4 School, Kotdwara, Uttarakhand-246149.

The Respondent did not engage any counsel / advocate in the present administrative proceeding and neither did the Respondent file any reply to the instant domain complaint. Hence, this Complaint has been proceeded *ex-parte*.

II. **THE DOMAIN NAME AND REGISTRAR:**

The Disputed Domain Name is: BUYKARO.CO.IN

The Disputed Domain Name is registered with IN Registry.

The accredited Registrar of the Disputed Domain Name is **GoDaddy.com, LLC**

Registrar Address: 14455 N. Hayden Rd. Ste. 226 Scottsdale AZ 85260 USA

Telephone: +1 (480) 505-8800

Fax: +1 (480) 505-8800

E-Mail: UDRPdisputes@godaddy.com, abuse@godaddy.com



III. PROCEDURAL HISTORY:

September 20, 2023	Date of Complaint
October 04, 2023	Sole Arbitrator appointed to adjudicate the dispute
October 11, 2023	Arbitral proceedings were commenced by sending notice to Respondent through email as per Paragraph 4(c) of INDRP Rules of Procedure, marking copy of the same to Complainant's authorized representative and to the .IN Registry to file response to the Complaint within 15 days of receipt of the same.
October 26, 2023	Pleadings completed as Respondent failed and neglected to file its response to the domain complaint within 15 days' time period which commenced on October 11, 2023.

Hence this award is proceeded with on basis of the available pleadings and documents only.

CASE OF THE COMPLAINANT

IV. FACTUAL BACKGROUND

The Complainant and Its Global Business

1. It was submitted that the Complainant, Pouring Pounds India Private Limited, is a company incorporated under the provisions of the Companies Act, 1956. It was submitted that the Complainant is a primarily engaged in the business of providing performance marketing services through advertising and promotion services to various entities, and offers for sale various kinds of goods and services through its websites as well as e-commerce marketplaces.

2. It was submitted that the Complainant was Founded in the United Kingdom in the year 2011, the Complainant is one of the UK's largest operators of rewards, cashback, and voucher websites. It was submitted that in the year 2013, the Complainant commenced its India business with the launch of its website CASHKARO.COM, which has become India's largest coupons site and offers cashback on more than 2000 e-commerce accomplices including ecommerce giants, ShopClues, Paytm, Amazon.in, Flipkart, and Myntra. Documents evidencing these statements were annexed as **Annexure - B**.
3. It was submitted that the since then, the Complainant has adopted several KARO formative marks on and in relation to its e-commerce business, *i.e.*, the CASHKARO Device (shown below), EARNKARO and EARNKARO Device (shown below), SABKARO and SABKARO Device (shown below), and BANKKARO and BANKKARO Device (shown below). Documents evidencing this statement were annexed as **Annexure – C**.



CASHKARO Σ 0 0 .



EARNKARO



SK SabKaro
Sabse Sasta.



BANKKARO

4. It was submitted that as an extension of the Complainant's KARO family of marks, in December 2022, the Complainant, conceived and adopted the marks BUYKARO and the BUYKARO Device (shown below) for its D2C e-commerce marketplace that offers deals and coupons on electronics, food, beauty, home décor and appliances from top brands and provides other allied and cognate services.



P. Anurag

BUYKARO

It was submitted that since adoption, the Complainant continues to openly and extensively use the Complainant's BUYKARO Marks on and in relation to the Complainant's services. Documents evidencing these statements were annexed herewith as **Annexure – D.**

5. It was submitted that the Complainant has also filed a trade mark application, namely, Application No. 5717997, seeking statutory rights in the BUYKARO (Device) mark. Application No. 5717997 was filed on December 12, 2022, covering “*advertising, marketing and promotional consultancy, advisory and assistance services, commercial trading and consumer information services, provision of an on-line marketplace for buyers and sellers of goods and services, provision of commercial and business contact information, commercial intermediation services, outsourced administrative management for companies, outsourcing services [business assistance], relocation services for businesses*” in Class 35, on an proposed to be used basis Extracts from the records of the Trade Marks Registry for the Complainant's trade mark application was annexed as **ANNEXURE - E.**

6. It was submitted that in addition to the above trademarks, the Complainant also owns the domain name BUYKARO.COM, which consists of the Complainant's BUYKARO mark. It was submitted that this domain name resolves to the Complainant's active website located at www.buykaro.com, which prominently features the Complainant's BUYKARO Marks, and by which the Complainant offers its services to consumers. It was submitted that as per the WHOIS records for the domain name BUYKARO.COM, it was first registered on June 2, 2013. It was submitted that the Complainant has become the owner of the domain name BUYKARO.COM which resolves to an active website. Printouts of the home page of the Complainant's website located at www.buykaro.com and WHOIS records for the domain name BUYKARO.COM were annexed as **ANNEXURE - F.**



7. It was submitted that since its adoption, the Complainant has amassed significant revenues owing to the services offered under the Complainant's BUYKARO Marks. It was submitted that the Complainant spends significant sums of money on the advertisement and promotion of the Complainant's services offered under the Complainant's BUYKARO Marks. It was submitted that the Complainant also promotes its services under the Complainant's BUYKARO Marks through social media platforms such as Instagram. Printouts from the Complainant's Instagram page was annexed as **ANNEXURE - G.**
8. It was submitted that owing to the extensive and continuous use of the Complainant's BUYKARO Marks by the Complainant, the Complainant's BUYKARO Marks have acquired a stellar reputation in India in a short span of time.

The Registrant and the Disputed Domain Name

9. It was submitted that the disputed domain name is BUYKARO.CO.IN and that the details of the Registrant have been provided by the National Internet Exchange of India ("NIXI"). An extract of the WHOIS records for the disputed domain name as provided by NIXI was annexed as **ANNEXURE - H.**
10. It was submitted that the disputed domain name resolves to an active website located at www.buykaro.co.in. A printout evidencing this was annexed as **ANNEXURE - I.**
11. It was submitted that as per Complainant's understanding, the Registrant is a direct competitor of the Complainant and is engaged in the same business as that of the Complainant, *i.e.*, an e-commerce platform engaged in the business of home and kitchen products, electronics, readymade clothing, etc. It was submitted that the Registrant has masked its details as per the WHOIS records for the disputed domain name and has further failed to provide any details regarding its identity on its website located at www.buykaro.co.in. Documents evidencing the above statements were annexed as **ANNEXURE - J.**



12. It was submitted that owing to the substantial goodwill and reputation of the Complainant, identity of the services offered by the rival parties, and the surreptitious nature of Registrant's operation of its business, it is evident that the Registrant has registered the disputed domain name BUYKARO.CO.IN with a *mala fide* intention to divert traffic and ride piggyback on the Complainant's well-established goodwill and reputation.
13. It was submitted that the being aggrieved by the unauthorized use of the BUYKARO mark and registration of the domain name BUYKARO.CO.IN, the Complainant issued a legal notice to the Registrant on the email id officialbuykaro@gmail.com available on the Registrant's website located at www.buykaro.co.in on August 9, 2023, demanding, *inter alia*, cessation of use of the BUYKARO mark, transfer/takedown of the domain name BUYKARO.CO.IN, and written undertakings regarding future non-use. A copy of the legal notice dated August 9, 2023, was annexed as **Annexure – K**. It was submitted that neither has the Registrant replied to the Complainant, nor has it complied with the demands listed in the Complainant's legal notice dated August 9, 2023. It was submitted that the Registrant is fully aware of the Complainant's rights in the Complainant's BUYKARO Marks. It was submitted that the Registrant has wilfully registered and chosen to continue quietly and surreptitiously to ride upon the substantial goodwill and reputation of the Complainant's rights in the Complainant's BUYKARO Marks taking benefit of the facade that the Internet provides with impunity.

V. **Legal Grounds**

a. **The Registrant's Domain Name is Identical and/or Confusingly Similar to a Mark in Which the Complainant has Rights**

14. It was submitted that the Complainant's BUYKARO Marks have acquired common law rights from its substantive and continuous use since at least as early as December 2022. Complainant relied on the case of *Microsoft Corporation v. Story Remix / Inofficial, FA 1734934* (Forum July 10, 2017) (The Panel held that the Policy does not require a complainant to own a registered trade mark prior to a



respondent's registration if it can demonstrate established common law rights in the mark.) and *Zora Labs, Inc. v. REG.RU LLC, FA 2303002034980* (Forum April 25, 2023) (“*The complainant provides evidence that it began using its mark via registered domain names in 2020 and also filed for trade mark registration with the USPTO that year, with the decision on that application currently pending. Further, the Complainant indicates its presence on social media and its position in the exchange of millions of dollars for NFT transactions using its platform(s). The Panel here finds that Complainant holds common law rights in the ZORA mark for the purposes of Policy*”).

15. It was submitted that it is well-settled that a domain name has all the characteristics of a trade mark. The Complainant relied on the case of *M/S Satyam Infoway Ltd. v. M/S Siffynet Solution (P) Ltd.*, JT 2004 (5) SC 541. It was submitted that a trade mark and a domain name, although used in a different manner, can be identical or confusingly similar. It was submitted that the Complainant has prior demonstrated common law rights in the Complainant's BUYKARO Marks. It was submitted that the Complainant's Application No. 5717997 dates back to December 12, 2022. It was submitted that the Complainant has extensively and continuously used the Complainant's BUYKARO Marks since at least December 2022. It was submitted that *Per contra*, the disputed domain name BUYKARO.CO.IN has been registered on July 25, 2023, *i.e.*, much subsequent to the Complainant's adoption of the Complainant's BUYKARO Marks. It was submitted that the Complainant's rights in the Complainant's BUYKARO Marks predate the registration of the disputed domain name and, therefore, the Complainant has prior rights in the Complainant's BUYKARO Marks. It was submitted that the Complainant's use of the Complainant's BUYKARO Marks also precedes the date of registration of the disputed domain name.

16. It was submitted that the disputed domain name, BUYKARO.CO.IN, is nearly identical to the Complainant's BUYKARO Marks. It was submitted that the domain name incorporates the Complainant's BUYKARO mark in its entirety. It was submitted that the mere addition of the country-code top-level domain, CO.IN, after the mark BUYKARO does nothing to distinguish the domain name from the



Complainant's BUYKARO Marks. The Complainant relied on the case of *Dareos Ltd., Dareos Inc. v. Evgeniy Khlintsev*, D2020-1727 (WIPO Mediation and Arbitration Centre, September 28, 2020) (the panel held that as a common practice in appropriate circumstances, the Top-Level Domain section of domain names is disregarded for the purposes of the comparison).

It was submitted that the disputed domain name, BUYKARO.CO.IN, is closely identical and/or confusingly similar to the Complainant's BUYKARO Marks under INDRP Policy Paragraph 4 (a).

b. The Registrant Has No Right or Legitimate Interest in the Domain Name

17. It was submitted that the Registrant cannot have any right or legitimate interest in the disputed domain name because the disputed domain name incorporates the Complainant's BUYKARO mark in which the Complainant has sole and exclusive rights and that has acquired substantial goodwill and reputation owing to the Complainant's efforts.

18. It was submitted that the Registrant is not a licensee of the Complainant, nor has the Registrant ever been authorized by the Complainant to use the Complainant's BUYKARO Marks or register the disputed domain name. It was submitted that the Complainant has no relationship whatsoever with the Registrant. The Complainant relied on the case of *Charles Jourdan Holding AG v. AAIM*, D2000-0403 (WIPO, June 27, 2000) (finding no rights or legitimate interests where respondent was not a licensee of the complainant).

It was submitted that the Registrant has no rights or legitimate interest in the disputed domain name under INDRP Policy Paragraph 4(b) read with paragraph 6(b).

c. The Registrant has Registered or Used the Domain Name in Bad Faith



19. It was submitted that it is clearly more than a coincidence that the Registrant chose and registered a domain name that is identical and confusingly similar to the Complainant's BUYKARO Marks. It was submitted that the Complainant has a long and well-established reputation in the Complainant's BUYKARO Marks through its exclusive use. It was submitted that there can be no doubt that the Registrant was aware of the Complainant's BUYKARO Marks when he chose and registered the disputed domain name, and in fact chose the domain name because it was identical to the Complainant's BUYKARO Marks, and intended to capitalize on that confusion. It was submitted that this constitutes evidence of bad faith. Complainant relied on the case of Kenneth Cole Productions Inc. v. Viswas Infomedia, INDRP/93 (April 10, 2009).
20. It was submitted that as noted in the preceding paragraphs, the Complainant issued a legal notice to the Registrant on August 9, 2023, which the Registrant has cleverly decided to not respond to, and instead continues to use the disputed domain name BUYKARO.CO.IN with impunity. It was submitted that the Registrant's bad faith is apparent since the Registrant has registered and continues to use the disputed domain name in apparent bad faith and full knowledge of the Complainant's rights in the Complainant's BUYKARO Marks. It was submitted that the Complainant has masked his details on the WHOIS records of the disputed domain name and fails to provide the complete details on the website associated with the disputed domain name as well. It was submitted that the Registrant, clearly, has no legitimate rights or interest in the disputed domain name, or the business operating on the associated website and is simply acting in bad faith. Complainant relied on the case of *HAPPN (Society) v. Happndating.in*, INDRP 1393 (August 14, 2021).
21. It was submitted that as Registrant is not a licensee of the Complainant, nor has the Registrant ever been authorized by the Complainant to use the Complainant's BUYKARO Marks or register the disputed domain name. It was submitted that the use of the domain name by the Registrant, who has no connection with the Complainant suggest opportunistic bad faith as stated in *HAPPN (Society) v. Happndating.in*, INDRP 1393 (August 14, 2021).



It was submitted that the Registrant's domain name has been registered, and is being used, in bad faith under INDRP Policy Paragraph 4(c) read with Paragraph 7.

V. PARTIES CONTENTIONS:

A. COMPLAINANT

- i. The Disputed Domain Name **"BUYKARO.CO.IN"** is identical and/or confusingly similar to the well-known trademarks **'BUYKARO'** trademarks of the Complainant.
- ii. Founded in the United Kingdom in the year 2011, the Complainant is one of the UK's largest operators of rewards, cashback, and voucher websites. In the year 2013, the Complainant commenced its India business with the launch of its website CASHKARO.COM, which has become India's largest coupons site and offers cashback on more than 2000 e-commerce accomplices including ecommerce giants, ShopClues, Paytm, Amazon.in, Flipkart, and Myntra.
- iii. The Complainant has adopted several KARO formative marks on and in relation to its e-commerce business, *i.e.*, the CASHKARO Device (shown below), EARNKARO and EARNKARO Device (shown below), SABKARO and SABKARO Device (shown below), and BANKKARO and BANKKARO Device.
- iv. The Complainant's KARO family of marks, in December 2022, the Complainant, conceived and adopted the marks BUYKARO and the BUYKARO Device (shown below) for its D2C e-commerce marketplace that offers deals and coupons on electronics, food, beauty, home décor and appliances from top brands and provides other allied and cognate services.



- v. The Complainant has also filed a trade mark application, namely, Application No. 5717997 **BUYKARO** in class 35, seeking statutory rights in the BUYKARO (Device) mark. Application No. 5717997 was filed on December 12, 2022.
- vi. The Complainant also owns the domain name BUYKARO.COM, which consists of the Complainant's BUYKARO mark. This domain name resolves to the Complainant's active website located at www.buykaro.com, which prominently features the Complainant's BUYKARO Marks, and by which the Complainant offers its services to consumers. As per the WHOIS records for the domain name BUYKARO.COM, it was first registered on June 2, 2013. Subsequently, the Complainant has become the owner of the domain name BUYKARO.COM which resolves to an active website.
- vii. The Complainant has amassed significant revenues owing to the services offered under the Complainant's BUYKARO Marks. The Complainant spends significant sums of money on the advertisement and promotion of the Complainant's services offered under the Complainant's BUYKARO Marks.
- viii. Owing to the extensive and continuous use of the Complainant's BUYKARO Marks by the Complainant, the Complainant's BUYKARO Marks have acquired a stellar reputation in India in a short span of time.
- ix. As per the Complainant's understanding, the Registrant is a direct competitor of the Complainant and is engaged in the same business as that of the Complainant, *i.e.*, an e-commerce platform engaged in the business of home and kitchen products, electronics, readymade clothing, etc.
- x. Being aggrieved by the unauthorized use of the BUYKARO mark and registration of the domain name BUYKARO.CO.IN, the Complainant issued a legal notice to the Registrant on the email id officialbuykaro@gmail.com available on the Registrant's website located at www.buykaro.co.in on August 9, 2023,



demanding, *inter alia*, cessation of use of the BUYKARO mark, transfer/takedown of the domain name BUYKARO.CO.IN, and written undertakings regarding future non-use.

- xi. The disputed domain name, BUYKARO.CO.IN, is nearly identical to the Complainant's BUYKARO Marks. The domain name incorporates the Complainant's BUYKARO mark in its entirety. The mere addition of the country-code top-level domain, CO.IN, after the mark BUYKARO does nothing to distinguish the domain name from the Complainant's BUYKARO Marks.
- xii. The Registrant is not a licensee of the Complainant, nor has the Registrant ever been authorized by the Complainant to use the Complainant's BUYKARO Marks or register the disputed domain name. Indeed, the Complainant has no relationship whatsoever with the Registrant.
- xiii. The Complainant issued a legal notice to the Registrant on August 9, 2023, which the Registrant has cleverly decided to not respond to, and instead continues to use the disputed domain name BUYKARO.CO.IN with impunity. Thus, the Registrant's bad faith is apparent since the Registrant has registered and continues to use the disputed domain name in apparent bad faith and full knowledge of the Complainant's rights in the Complainant's BUYKARO Marks.

B. RESPONDENT

The Respondent did not file its reply to contest the claims of the Complainant and thus this award is based on pleadings and documents filed by the Complainant only.

V. DISCUSSION AND FINDINGS:

The INDRP (.IN Domain Name Dispute Resolution Policy), adopted by NIXI, provides that a domain name owner must transfer its domain name registration to a complainant/trademark owner if:



- i. The Registrant's domain name is identical or confusingly similar to a name, trademark or service mark in which the Complainant has rights;
- ii. The Registrant has no rights or legitimate interests in respect of the domain name; and
- iii. The Registrant's domain name has been registered or is being used in bad faith.

I have gone through the pleadings i.e., the Complaint filed by Complainant. I have also gone through documents filed by the Complainant with the Complaint. After giving due consideration to pleadings, documents, facts and legally settled principles, I hold that in the present case all three requirements for transfer of the disputed domain name have been met.

I further hold that the disputed domain name of the Respondent is visually, phonetically, structurally and conceptually deceptively similar to the trademark and domain name of the Complainant over which the Complainant, who is prior adopter, prior user and registered proprietor of the BUYKARO has absolute and sole rights. Consequently, I hold that the Respondent does not have any rights or legitimate interest over the Disputed Domain Name BUYKARO hence the same needs to be transferred to the Complainant. I hold that the trade mark / domain name BUYKARO has exclusively and solely become associated and recognized with the Complainant. I hold that due to such exclusive association of the BUYKARO trademarks with the Complainant, and also considering the numerous prior registered domain names of the Complainant containing the BUYKARO marks, the Complainant alone has the right to utilize the BUYKARO trademarks as a domain name registered with the .IN Registry. I hold that the Respondent is not entitled to register the disputed domain name as the Respondent has failed to establish any right over the BUYKARO trademark and the same is associated only with the Complainant.

d. The Registrant's Domain Name is Identical and/or Confusingly Similar to a Mark in Which the Complainant has Rights

22. I find that the Complainant's BUYKARO Marks have acquired common law rights from its substantive and continuous use since at least as early as December 2022.



As held in the case of *Microsoft Corporation v. Story Remix / Inofficial*, FA 1734934 (Forum July 10, 2017), wherein the Panel held that the Policy does not require a complainant to own a registered trade mark prior to a respondent's registration if it can demonstrate established common law rights in the mark, I hold that merely because Complainant does not have registered trademark, does not mean that the Complainant does not have superior rights, being prior user.

23. I find that it is well-settled that a domain name has all the characteristics of a trade mark. I find that a trade mark and a domain name, although used in a different manner, can be identical or confusingly similar. I find that the Complainant has prior demonstrated common law rights in the Complainant's BUYKARO Marks. I find that the Complainant's Application No. 5717997 dates back to December 12, 2022. I find that the Complainant has extensively and continuously used the Complainant's BUYKARO Marks since at least December 2022. I find that *Per contra*, the disputed domain name BUYKARO.CO.IN has been registered on July 25, 2023, *i.e.*, much subsequent to the Complainant's adoption of the Complainant's BUYKARO Marks. I find that the Complainant's rights in the Complainant's BUYKARO Marks predate the registration of the disputed domain name and, therefore, the Complainant has prior rights in the Complainant's BUYKARO Marks. I find that the Complainant's use of the Complainant's BUYKARO Marks also precedes the date of registration of the disputed domain name.

24. I find that the disputed domain name, BUYKARO.CO.IN, is nearly identical to the Complainant's BUYKARO Marks. I find that the domain name incorporates the Complainant's BUYKARO mark in its entirety. I find that the mere addition of the country-code top-level domain, CO.IN, after the mark BUYKARO does nothing to distinguish the domain name from the Complainant's BUYKARO Marks. I hold that it is a trite law that as a common practice in appropriate circumstances, the Top-Level Domain section of domain names is disregarded for the purposes of the comparison.



I find that the disputed domain name, BUYKARO.CO.IN, is closely identical and/or confusingly similar to the Complainant's BUYKARO Marks under INDRP Policy Paragraph 4 (a).

e. The Registrant Has No Right or Legitimate Interest in the Domain Name

25. I find that the Registrant cannot have any right or legitimate interest in the disputed domain name because the disputed domain name incorporates the Complainant's BUYKARO mark in which the Complainant has sole and exclusive rights and that has acquired substantial goodwill and reputation owing to the Complainant's efforts.

26. I find that the Registrant is not a licensee of the Complainant, nor has the Registrant ever been authorized by the Complainant to use the Complainant's BUYKARO Marks or register the disputed domain name. I find that the Complainant has no relationship whatsoever with the Registrant.

I find that the Registrant has no rights or legitimate interest in the disputed domain name under INDRP Policy Paragraph 4(b) read with paragraph 6(b).

f. The Registrant has Registered or Used the Domain Name in Bad Faith

27. I find that it is clearly more than a coincidence that the Registrant chose and registered a domain name that is identical and confusingly similar to the Complainant's BUYKARO Marks. I find that the Complainant has a long and well-established reputation in the Complainant's BUYKARO Marks through its exclusive use. I find that there can be no doubt that the Registrant was aware of the Complainant's BUYKARO Marks when he chose and registered the disputed domain name, and in fact chose the domain name because it was identical to the Complainant's BUYKARO Marks, and intended to capitalize on that confusion. I find that this constitutes evidence of bad faith.



28. I find that the Complainant issued a legal notice to the Registrant on August 9, 2023, which the Registrant has cleverly decided to not respond to, and instead continues to use the disputed domain name BUYKARO.CO.IN with impunity. I find that the Registrant's bad faith is apparent since the Registrant has registered and continues to use the disputed domain name in apparent bad faith and full knowledge of the Complainant's rights in the Complainant's BUYKARO Marks. I find that the Complainant has masked his details on the WHOIS records of the disputed domain name and fails to provide the complete details on the website associated with the disputed domain name as well. I find that the Registrant, clearly, has no legitimate rights or interest in the disputed domain name, or the business operating on the associated website and is simply acting in bad faith.

29. I find that as Registrant is not a licensee of the Complainant, nor has the Registrant ever been authorized by the Complainant to use the Complainant's BUYKARO Marks or register the disputed domain name. I find that the use of the domain name by the Registrant, who has no connection with the Complainant suggest opportunistic bad faith as stated in *HAPPN (Society) v. Happndating.in*, INDRP 1393 (August 14, 2021).

I find that the Registrant's domain name has been registered, and is being used, in bad faith under INDRP Policy Paragraph 4(c) read with Paragraph 7.

In view of all the above facts and legal precedents, I find and hold as under:

- That the disputed domain name of the Respondent is identical and confusingly similar to the Complainant's BUYKARO trademarks.
- That the use of the disputed domain name is likely to lead to enormous confusion *qua* its origin due to the use of the Complainant's trade mark BUYKARO as a whole in the disputed domain name being phonetically, visually and structurally identical to the Complainant's trademark BUYKARO.
- That the disputed domain name was registered in bad faith by the Respondent.



- That the disputed domain name is strictly identical to the Complainant's distinctive mark, consumers would certainly mistakenly assume that a website / disputed domain name is operated or endorsed by the Complainant, when such would not be the case.
- That the Respondent has deliberately attempted to create a false impression in the minds of the consumers that the Respondent is somehow associated with or endorsed by the Complainant to ride on the goodwill and reputation associated with the Complainant and to unjustly enrich from the same.
- That the Respondent has no rights or legitimate interests in respect of the disputed domain name.
- That there is also an imminent likelihood of damage which may be caused to the public at large and also cause irreparable damage to the Complainant's reputation and goodwill through the disputed domain name.
- That the Respondent does not have any affiliation or connection with the Complainant and company name / trade name / trade mark / house mark / domain name BUYKARO consequently it is inconceivable that the Respondent's adoption of the disputed domain name which is identical to the Complainant's domain name and trademark BUYKARO can be seen as merely coincidental.

VII. DECISION

- a) In view of the above facts and circumstances, it is clear that the Complainant has succeeded in its complaint.
- b) That the .IN Registry of NIXI is hereby directed to transfer the domain name/URL of the Respondent BUYKARO.CO.IN to the Complainant;
- c) In the facts and circumstances of the case no cost or penalty is imposed upon the Respondent. The Award is accordingly passed on the 27th day of November, 2023.



Sridharan Rajan Ramkumar
Sole Arbitrator

Date: 27/11/2023